

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LG.PHILIPS LCD CO., LTD.,

Plaintiff,

v.

Civil Action No. 04-343 (JJF)

TATUNG CO.;
TATUNG COMPANY OF AMERICA, INC.; AND
VIEWSONIC CORPORATION

Defendants.

**DECLARATION OF SCOTT R. MILLER IN SUPPORT OF OPENING BRIEF OF
DEFENDANT VIEWSONIC CORPORATION IN
SUPPORT OF ITS MOTION FOR LEAVE TO FILE AMENDED ANSWER**

I, Scott R. Miller, being duly sworn, depose and say as follows:

I am a partner of Connolly Bove Lodge & Hutz LLP, counsel of record for ViewSonic Corporation in this action. I submit this declaration in support of the Opening Brief of Defendant ViewSonic Corporation in Support of Its Motion for Leave to File Amended Answer.

1. Counsel for ViewSonic and LPL have discussed the amendment of ViewSonic's Answer on various occasions. ViewSonic made a formal request that LPL agree to permit it to amend its Answer to generally plead the defense of inequitable conduct in a letter dated May 23, 2007. Attached hereto as Exhibit A is a true and correct copy of a letter from Scott R. Miller to Cass W. Christenson dated May 23, 2007 enclosing the draft Amended Answer generally pleading the defense of inequitable conduct. Attached hereto as Exhibit B is a true and correct copy of the response from Cass W. Christenson to Scott R. Miller dated May 25, 2007.

2. The Markman hearing in this matter took place before the Special Master on May 30, 2007. The Special Master issued his Report and Recommendations on June 15, 2007, the

date on which he had previously indicated he would do so. At the Order of the Special Master, On July 16, 2007, LPL served complete infringement contentions and defendants served complete invalidity contentions based on the Special Master's recommended claim constructions. Without these claim constructions, ViewSonic was not able to know how LPL intended to apply the construed claims. Once it had these interrogatory responses, it could ascertain that certain prior art it had identified read on the claims as applied by LPL to the ViewSonic accused products.

3. LPL waited until July, 2007 to produce virtually all of the technical documents that have been produced in this case regarding prior art products of LPL and/or its predecessor, LG Electronics. LPL only produced these materials after it was Ordered to do so by the Special Master. Within these documents are products which ViewSonic contends are within the scope of the claims, particularly as the construed claims are applied by LPL, that should have been disclosed to the USPTO during prosecution of the Patents-in-Suit.

4. Attached hereto as Exhibit C are true and correct copies of the letter from Scott R. Miller to Cass W. Christenson dated September 17, 2007, enclosing a draft Amended Answer which specifically pleads the defense of inequitable conduct. Attached hereto as Exhibit D is a true and correct copy of the September 21, 2007 email response from LPL's counsel, promising to provide comments. The deposition referred to in the September 21 response was suspended by Order of the Special Master on September 20, 2007 due to the lack of preparation of the witness. To date, no substantive response has been received from LPL to this request. As such, counsel believes that the parties are at an impasse on ViewSonic's request that LPL agree to allow ViewSonic to file an Amended Answer.

5. Attached hereto as Exhibit E is a true and correct copy of the condensed version of the transcript of the September 21, 2007 hearing before the Special Master regarding the deposition of LPL, which commenced on September 19, 2007.

6. Attached hereto as Exhibit F is a true and correct copy of a product specification for the LC056N1 product, which document was first produced by LPL in the month of July, 2007. This document was marked as Exhibit 78 at the recent LPL deposition and includes a drawing of the product at page LPL22142.

7. Attached hereto as Exhibit G are true and correct copies of photographs of a physical sample of the LC056N1 product first obtained by defendants after the production of the Exh. F by LPL.

8. Attached hereto as Exhibit H are true and correct copies of the cover page, index page and testimony pages of the deposition of Jong Hwan Kim, taken in this action pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure.

9. Attached hereto as Exhibit I are true and correct copies of the cover page, index page and testimony pages of the deposition of Jong Hwan Kim, taken in this action pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure.

10. Attached hereto as Exhibit J are true and correct copies of the cover page, index page, testimony pages (including deposition exhibit 4) of the deposition of Hyo Sun Ko, taken in

this action pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This Declaration is executed this 24th day of September, 2007, in Los Angeles, California.

By: 

Scott R. Miller

CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2007, a true copy of the foregoing document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the following and the document is available for viewing and downloading from CM/ECF:

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I hereby certify that on September 25, 2007, I have sent by email the foregoing document to the following non-registered participants:

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By: /s/ James D. Heisman

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2007, a true copy of the foregoing document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the following and the document is available for viewing and downloading from CM/ECF:

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I hereby certify that on October 2, 2007, I have sent by email the foregoing document to the following non-registered participants:

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